

a permit is extended or a license is renewed. In the absence of a concrete plan for sale, however, no purpose would be served by requiring applicants to state that obvious proposition.

664. Even if Raystay was motivated to seek extensions for the purpose of selling the permits, such motivation would not be improper. A permittee has the right to assign its permit, subject to compliance with the Commission's rules. Jose M. Oti d/b/a Sandino Telecasters, 8 FCC Rcd 2573, 2575 n.6, 72 RR 2d 611, 613 n.6 (1993). In Beacon Radio, Inc., 18 FCC 2d 648, 650, 16 RR 2d 925, 927 (1969) the Commission said, "While we recognize that the purpose of Beacon's request is to preserve its construction permit so that it may be assigned to another party, this fact alone does not warrant a denial of its request." The record is clear that Raystay never had any understanding or agreement to sell the Lancaster or Lebanon permits. It therefore had no obligation to report anything concerning sales negotiations or related matters.

665. Raystay also had no obligation to report the fact that its budgets did not allocate funds to construct the LPTV stations. The application form did not request such information. With respect to past budgets, Raystay had already told the Commission that it had not started construction, so no purpose would be served in mentioning budgets that covered prior periods. The only conceivable

relevance of the budgets is if the budget was evidence that Raystay would not construct the stations in the future. Mr. Sandifer's testimony makes clear that the budgets were not such evidence because Raystay often made adjustments and undertook construction that was not contemplated in the budget for that fiscal year. Moreover, there is no evidence that the content of Raystay's budget was even considered in connection with the preparation of the extension applications, so it cannot be concluded that Raystay tried to hide its budget from the Commission. No lack of candor can be found with respect to Raystay's budget.

666. The final matter on which evidence was taken was Raystay's loan agreement with Greyhound Financial Corporation (Greyhound). Raystay was under no obligation to report the Greyhound loan agreement in the extension applications because there was no loan agreement until after the second extension application was filed. Nothing in the Commission's rules or the application form requires an applicant to report an agreement before it is entered into. Under TBF's theory, licensees and applicants would have to flood the Commission with progress reports on agreements that may never come to be. Under TBF's theory, applicants negotiating documents such as loan agreements could have to file a report with the Commission every time a new draft was prepared. Licensees would be required to regularly make public details of their

confidential business negotiations. No justification whatsoever exists for such a requirement with respect to draft documents or negotiations which may or may not lead to an actual agreement.

667. As noted above, the Greyhound loan agreement was not signed until after the second extension application was filed. No Section 1.65 issue was specified against Glendale, so the question of whether Raystay should have amended the extension application to report the restrictions in the loan agreement is not in issue. Even if the issue did encompass that question, Raystay was under no obligation to report the loan agreement. The loan agreement (or the negotiations relating thereto) had nothing to do with why the stations were not built. The restrictions were not in effect prior to August 1992, and there is no support for the speculation that the possibility of such restrictions caused Raystay not to construct. Moreover, both Mr. Sandifer and George Gardner understood that there were many ways Raystay or its stockholders could have built the stations notwithstanding the restrictions in the loan agreement. George Gardner understood that Greyhound's consent could have been obtained from Greyhound because Raystay was generating sufficient cash flow. While the agreement did not allow loan proceeds to be used in connection with the permits, Raystay never intended to use the loan proceeds in that manner. Finally, Raystay's acquiescence

in the restrictions does not show that Raystay abandoned the idea of building the permits. Mr. Sandifer negotiated a change to the agreement to allow another option for building the permits, and Raystay continued to consider ideas for building the permits after that period of time.

668. The mere existence of restrictions in the agreement was not, by itself, reportable. Any permittee is required to obtain a large number of approvals from third parties before it can build its station. Zoning approvals must be obtained for towers and transmitters. Credit approvals must often be obtained from suppliers such as equipment manufacturers and electric companies. There is no requirement that a permittee list all the needed approvals in these extension applications. There were ways of building the LPTV stations that did not require Greyhound's approval, but the stations clearly could have been built with its approval.

669. Even if Raystay was under an obligation to report the Greyhound loan agreement, no lack of candor can be found because there is no evidence of intent to deceive. The mere failure to report a fact does not establish an intent to conceal that fact, even if the fact should have been reported. See Gross Broadcasting Co., 41 FCC 2d 729, 730-731, 27 RR 2d 1543, 1545 (1973) (failure to report letter of intent to sell station not disqualifying in absence of evidence of fraud or concealment), R. Edward Ceries, 29 FCC 2d 78, 21 RR 2d 975

(1971). In this case, TBF did not even attempt to show that Raystay ever made any connection between Greyhound and the extension applications. No evidence was offered that Mr. Schauble and David Gardner, the two people involved in determining what went into the extension applications, were even aware of the potential restrictions when the applications were being prepared. George Gardner never saw draft documents, and it is uncertain whether he and Mr. Sandifer discussed Greyhound and the LPTV permits before the agreement was signed. In any event, George Gardner understood that Raystay could build the permits through a variety of means, so there was no reason for him to consider the potential agreement when reviewing the extension applications. Mr. Sandifer was not involved in reviewing the second set of extension applications, so his knowledge is not relevant in determining intent to deceive.

670. After an exhaustive review of the circumstances surrounding the filing of Raystay's extension applications, no impropriety has been found. TBF has utterly failed to show any intent by Raystay to deceive the Commission. The issue must therefore be resolved in Glendale's favor.

C. Renewal Expectancy

1. Introduction

671. Since TBF is not qualified to remain a Commission licensee, it is not entitled to comparative consideration.

Guinan v. FCC, 297 F.2d 782 (D.C. Cir. 1961). Nonetheless, findings and conclusions will be made on TBF's claim to a renewal expectancy in case a reviewing authority decides it is necessary to reach that issue.

672. The Commission evaluates five factors in determining whether a licensee is entitled to a renewal expectancy:

(1) the licensee's efforts to ascertain the needs, problems, and interests of its community; (2) the licensee's programmatic response to those ascertained needs; (3) the licensee's reputation in the community for serving the needs, problems and interests; (4) the licensee's record of compliance with the Communications Act and FCC rules and policies; and (5) the presence or absence of any special effort at community outreach or towards providing a forum for local self-expression.

Fox Television Stations, Inc., 9 FCC Rcd 62, 63, 74 RR 2d 922, 924 (1993). With respect to programming, an important factor is how much of the programming is locally produced. Formulation of Policies and Rules Relating to Broadcast Renewal Applicants, 4 FCC Rcd 6363, 6368 n.11 (1989).

2. Ascertainment

673. While TBF did undertake ascertainment on a regular basis, there are three significant defects in its ascertainment methodology during the renewal period. As noted in the findings, TBF used several sources of information in its ascertainment. One of the sources were local newspapers and national publications. In theory, TBF was to search for

mentions of a particular issue in these publications, and each mention of an issue was to be counted in determining the most important issues in the community. A review of TBF's ascertainment tabulations purports to show that there was almost no mention of state government or federal government or transportation. It is preposterous to conclude, as TBF did, that the Miami Herald and Fort Lauderdale Sun Sentinel ignored the Florida state government or that Time and U.S. News and World Report failed to mention the federal government.²⁹ These absences make it impossible to conclude that TBF counted the articles in an accurate and fair manner.

674. A more fundamental problem with TBF's ascertainment is that the results of the ascertainment were far too general to be an effective guide to the needs, interests and problems of the Miami community. TBF's own public affairs manual and TBN's public affairs department warned that the result of the ascertainment process should not be broad topics but specific issues such as "Porno on 42nd Street" or "State Drought." Notwithstanding that sound advice, the "community issues" considered by TBF were extremely broad topics such as "Crime" or "Drug/Alcohol Abuse." This use of extremely broad topics made it impossible for TBF to determine what the specific needs and interests of Miami were. Indeed, many programs TBF

²⁹ Indeed, TBF's reliance upon national publications was not designed to ascertain the needs of the community of Miami but of the country as a whole.

listed as being responsive to a top community issue were in fact shown by TBF's own ascertainment not to relate to important community issues. For instance, many of the programs listed under crime in fact related to obscenity, pornography or the occult, which were shown by the ascertainment tabulations not to be important community issues. Similarly, much of TBF's programming under the broad topic "Education/Schools" dealt with religion and or traditional values in the schools, matters that did not register as important in TBF's ascertainment. The topics listed as community issues are so broad and vague that they are totally ineffective guides as to what is important in the community. For instance, crime could include anything from homicide to rape to government corruption to drug dealing to "white-collar crime" to pornography. TBF had no effective way of knowing which of these specific matters were important. As shown above, this often resulted in TBF offering programs that were not in fact responsive to the top needs and interests of the community.

675. A third problem with TBF's ascertainment is that in many instances, the top community issues listed in TBF's issues/programs lists are not in fact what TBF ascertained to be the top issues. TBF had considerable discretion in determining how to conduct its ascertainment. Once it chose that methodology, however, it clearly had to abide by that

methodology. In this case, there was often a considerable difference between what TBF's ascertainment tabulations showed to be the top issues and what TBF listed to be the top issues. TBF had no right to conduct ascertainment and then to ignore that ascertainment and list a different set of issues. The discrepancy reflects adversely on TBF's ascertainment process regardless of whether the discrepancy resulted from error or from a deliberate decision on TBF's part.

676. The testimony of TBF's own public witness also raises further doubts about the effectiveness of its ascertainment process. In several cases, those witnesses opine that a certain issue that TBF generally did not ascertain to be important was in fact an important community issue during the renewal period. If the public witnesses are correct, TBF was not successful in ascertaining the needs and interests of the community. If the public witnesses are incorrect, the value of their testimony becomes doubtful.

3. TBF's Programming

677. TBF's purported goal was to cover every top issue in the community during each calendar quarter. In the first part of the renewal period it attempted to cover the top eight or ten issues. Later in the renewal period, it decided to focus on the top five community issues (as determined by TBF's ascertainment process).

678. An important criterion in determining TBF's entitlement to a renewal expectancy is TBF's programming response to what it ascertained to be the most important issues in the community. See Fox Television Stations, Inc., supra ("the licensee's programmatic response to those ascertained needs"), Simon Geller, 90 FCC 2d 250, 264-265, 51 RR 2d 1019, 1032 (1982). By its plain language, the cases only allow consideration of programming that is responsive to ascertained community needs. While TBF described many children's programs (none local) broadcast on the Trinity Broadcasting Network, none of these programs were tied in to any ascertained community needs, nor were any specific episode descriptions offered. These programs are therefore irrelevant to TBF's renewal expectancy showing. Moreover, many of those programs are clearly entertainment programs (e.g., music video programs and animated variety shows) which have no relevance to renewal expectancy. See Simon Geller, supra, 90 FCC 2d at 264 n.67, 51 RR 2d at 1032 n.67 (entertainment and sports programs not considered in determining compliance with public interest standard), Fox Television Stations, Inc., 8 FCC Rcd 2361, 2376 n.26, 72 RR 2d 297, 305 n.26 (Rev. Bd. 1993) (sports, parades and award shows disregarded as not relevant to any ascertained issues).

679. The only specific, meaningful evidence of how TBF responded to community issues is the program synopses in its

quarterly reports. Those reports are the only evidence of specific programs responding to community issues.³⁰ The record shows that (1) TBF utterly failed to cover many issues of community importance during the renewal period, (2) many other top community issues received minimal coverage, (3) TBF rarely met its stated goal of four local programs on each top community issue each quarter, and (4) many of the programs listed in the quarterly reports were not in fact responsive to important community needs.

680. TBF's only local issue-responsive programming was a one-half hour local weekly public program and a local religious program with some public affairs segments (Miami Praise the Lord). No news, editorials, or political programs were broadcast during the renewal period. A review of TBF's quarterly reports shows that there were quarters when these programs often did not cover the top community issues. In over half of the quarters during the renewal period, Feedback and/or South Florida Public Report were mentioned five or fewer times in the quarterly reports. Even though Miami Praise the Lord had multiple interviews within a program, six or fewer interviews on that program were mentioned in the quarterly reports as being responsive to top community issues

³⁰ TBF's Public Affairs Director testified that a program covering an issue might not be listed in the quarterly reports if she could not write a paragraph describing that coverage. Such coverage would clearly be minimal.

during the renewal period. While TBF's witnesses claim that the ascertainment played a primary role in determining the issues to be treated in the programming, there is no such strong correlation. If there had been a strong correlation between ascertainment and programming, TBF's local programs would have appeared in the quarterly reports for more often than they did.³¹

681. The biggest flaw in TBF's response to ascertained needs is that there are sixteen instances in which there is no record evidence that TBF offered any programming whatsoever responsive to top community issues. If a licensee is to be judged by its responsiveness to the most important issues in the community, its repeated total failure to respond to those issues must be counted against it. It is important to note that TBF did not review the programming offered by other stations and exercise its discretion not to cover those issues. Ms. Downing specifically testified that if an issue was a top community issue, TBF attempted to cover that issue, no matter what it was. In many instances, however, TBF failed.

³¹ It was TBF's policy to place any program in the quarterly reports if it was sufficiently responsive to an issue that a paragraph could be written describing that issue. Moreover, since the quarterly reports are the only record evidence detailing TBF's programming, the listed programs are all TBF can rely upon to meet its burden of proof.

682. In addition to the sixteen instances where no programming whatsoever was offered, there are fifteen instances where top community issues were minimally covered with only one or two interviews. Upon closer examination, the minimal amount of programming relied upon for several of these issues had little or nothing to do with the needs and interests of Miami.

683. TBF's stated goal was to have four local programs each quarter on each top issue. In fact, it was more common for TBF to have no local programming whatsoever on an issue in a quarter than to meet the stated goal of four local programs each quarter. There were thirty-five instances during the renewal period when an issue was not covered in any local programming. The amount of local programming offered to meet a community issue is an important criterion. Formulation of Policies and Rules Relating to Broadcast Renewal Applicants, supra. The many instances in which TBF did not offer any local programming responsive to top community issues is a significant minus. Moreover, the repeated failures to offer local programming show that there was not the close correction between programming and ascertainment claimed by TBF.

684. TBF's failure to provide local programming is compounded by the fact that much of the TBN network programming it relies upon was not in fact responsive to the needs, interests, and problems of Miami. Local needs can be

met through programming not produced by a local station. WPIX, Inc., 68 FCC 2d 381, 402-403, 43 RR 2d 278, 306 (1978). For example, a network program discussing drug dealing in Miami would be responsive to that issue. A review of the quarterly reports, however, shows that many of the programs relied upon by TBF have nothing to do with the needs, interests and problems of Miami. For instance, interviews concerning the transportation problems in Orange County, California are not at all responsive to the transportation needs of Miami. Similarly, the description of a ministry in San Diego, Riverside, CA, or Los Angeles does not contain any meaningful information to the citizens of Miami. As shown in the findings of fact, many of TBF's programs fall within that category.³²

685. As noted above with respect to ascertainment, another problem with respect to TBF's programming is that the ascertainment categories were so general that many programs were not responsive to community needs or cannot be shown to be responsive to important community needs. As shown in the preceding section, many of the programs listed under "Crime" or "Education/Schools" related to areas of those issues that were not important to the community.

³² Ms. Dressler testified with respect to the network programming that she would often ask guests to discuss matters from a national as well as a local perspective. That does not show, however, that the program was relevant to the specified needs and interests of Miami.

686. Finally, an examination of TBF's programming under the issues of alcohol and drug abuse, and, to a lesser extent, crime, shows that much of the programming listed in the quarterly reports is not relevant to TBF's renewal expectancy showing because it is a recitation of personal religious experiences. It has been ruled that personal religious experiences are not relevant to renewal expectancy because they are not the type of objective matters considered by the Commission. See Tr. 121-132. While religious programming can be relevant to a renewal expectancy, "[n]o license renewal preference is awarded for religious programming qua 'religion'..." Pillar of Fire, 99 FCC 2d 1256, 57 RR 2d 601, 614 (Rev. Bd. 1984). The classic example of relevant religious programming is "a program featuring a panel of priests, ministers, and rabbis discussing recent statements by Catholic bishops on the morality of the nuclear arms race..." Office of Communication of the United Church of Christ v. FCC, 707 F.2d 1413, 1430-1431, 53 RR 2d 1371, 1387-1388 (D.C. Cir. 1983). While some of TBF's programs do fall within the type of religious programming that is relevant to renewal expectancy, personal religious experiences are the type of subjective matters that are no more relevant to renewal expectancy than someone's reaction to classical music. Therefore, while many of the experiences described in TBF's programming are personally moving, they cannot be considered

issue-responsive programming that is relevant to TBF's renewal expectancy claim.

687. In short, there were many problems with TBF's issue-responsive programming during the renewal period. There was no close connection between the ascertainment process and the programming. There were only two local programs dealing with community issues, and many of these specific programs did not cover the top ascertained issues that TBF supposedly was attempting to cover. Many top community issues (as determined by TBF's ascertainment) were not covered at all, were minimally covered, or were not covered by any local programming. TBF broadcast no news, editorials, or political programming. Much of the programming relied on by TBF was not responsive to the needs and interest of Miami. As will be shown below, TBF's programming record bears a much closer relationship to renewal applicants that did not receive renewal expectancy than to applicants that received strong renewal expectancies.

4. Public Witness Testimony

688. The public's response to a broadcast station can be an important factor in the renewal expectancy analysis. Office of Communication of the United Church of Christ v. FCC, 359 F.2d 994, 1005 (D.C. Cir. 1966). Public witness testimony, however, cannot create a basis for renewal expectancy in the absence of a sufficient programming records.

Metroplex Communications, Inc., 4 FCC Rcd 8149, 8153, 67 RR 2d 185, 192 (Rev. Bd. 1989). In Simon Geller, supra, 90 FCC 2d at 266 n. 76, 51 RR 2d at 1034 n.76, one reason the Commission gave for discounting public witness testimony was that no showing was made "that the testimony of these witnesses represented a random cross section of public opinion."

689. In this case, the record contains thirty declarations from individuals supporting TBF's renewal application. Most of these individuals appeared on TBF programming and received publicity for their ministries. In many cases, the individuals were able to solicit volunteers, financial contributions, or aid on these programs. Clearly, people who receive this type of assistance from a station hardly constitute a random cross section of public opinion. Moreover, notwithstanding these declarations, the multitude of problems with TBF's programming efforts still exist.

690. TBF's statements must be balanced by three statements offered by SALAD from distinguished community leaders: the head of the area NAACP, a City Commissioner in Fort Lauderdale, and a professor of social work who had done considerable work on the homeless. TBF's total ignorance of the NAACP is troubling, especially since TBF ascertained discrimination/minority groups to be an important community issue several times during the renewal period and since there were several instances when that issue received no local

programming or minimal treatment. The NAACP clearly gave TBF the opportunity to address the issue in an effective fashion, but it did not take advantage of that opportunity. Mr. Moore's testimony that TBF did not cover any event of interest to him is troubling in light of his status as a public official affiliated with many community groups. Dr. Cherry's testimony as to how he was treated unfairly on a TBF program is also troubling.

691. The public witness testimony in this proceeding does not provide a basis for granting TBF a renewal expectancy. TBF's public witnesses do not represent a random cross-section of the community, the TBF public witnesses do not eliminate the many problems with TBF's programming, and there is significant testimony from members of the public opposing TBF's renewal application.

5. Community Involvement

692. Community involvement does not carry the weight of the other renewal expectancy criteria. Metroplex Communications, Inc., supra, 4 FCC Rcd at 8156, 67 RR 2d at 197. The Commission has considered the factor significant when the licensee's activities are "many and variegated." Id., Fox Television Stations, Inc., 8 FCC Rcd at 2416-2417, 72 RR 2d at 321 (credit awarded for participation in a wide variety of affairs). Here, TBF only claims credit for two activities--His Hand Extended, in which donated food and

clothing were given to needy people, and the Prayer Partner Line. TBF is clearly entitled to some credit for His Hand Extended, although a large part of the credit must go to TBF's viewers who donated the food and clothing used in the program.

693. TBF is not entitled to meaningful credit for the Prayer Partner Line because such credit would violate the Establishment Clause of the First Amendment of the United States Constitution and would be contrary to Commission precedent. The vast majority of the calls to the Prayer Partner Line are directly religious activity--prayers, salvations, rededications, etc. In essence, the Prayer Partner Line is a telephone version of a church. As noted in Pillar of Fire, supra, no credit shall be given for religion qua religion. "A religious sect has no constitutional right to convert a licensed communications franchise into a church." King's Garden, Inc. v. FCC, 498 F.2d 51, 60, 30 RR 2d 258, 269 (D.C. Cir. 1974). TBF clearly has the right to run its Prayer Partner Line. It would be totally improper, however, to award TBF renewal expectancy credit (and the corresponding broadcasting license) because it was operating a telephone church. While TBF could receive some residual credit for referring individuals to social service agencies, its own

records show such activity was a very small but indeterminate part of the Prayer Partner Line.³³

694. TBF can only receive very limited credit for community involvement because it can only point to one cognizable community involvement program, as opposed to licensees who engage in a wide variety of community involvement programs.

6. Overview and Analysis

695. "No review of a licensee record can fail to reflect whether it has complied with the strictures set down to govern a broadcaster's conduct." Metroplex Communications, Inc., supra, 4 FCC Rcd at 8153, 67 RR 2d at 192. The record developed under the qualifications issues specified against TBF shows that TBF's principals engaged in a pervasive and ongoing scheme of misconduct and deception which requires TBF's disqualification. Clearly, if the misconduct requires a licensee's total disqualification, the same misconduct is more than sufficiently serious to eliminate that licensee's right to a renewal expectancy.

696. In order to merit any sort of renewal expectancy, TBF must provide substantial service: i.e., "sound, favorable and substantially above a level of mediocre service which

³³ Such activity was lumped into the "Special Requests" category for recordkeeping purposes with messages, complaints, questions, etc. All special request calls were less than three percent of the total calls during the renewal period.

might just minimally warrant renewal." Central Florida Enterprises, Inc. v. FCC, 683 F.2d 503, 508, 51 RR 2d 1405, 1410 (D.C. Cir. 1982). In many respects, TBF's record resembles the minimal record that was deemed unworthy of a renewal expectancy in Simon Geller, supra. In Geller, the licensee broadcast "no news, editorials, and none of his programming was locally produced." 90 FCC 2d at 265, 51 RR 2d at 1032. TBF broadcast no news and no editorials. The licensee in Geller broadcast several weekly series that could be characterized as public affairs programs. 90 FCC 2d at 262, 51 RR 2d at 1030. The Geller station broadcast eighteen PSAs a week, while TBF broadcast only twenty-five to thirty PSAs a week.

697. There are several differences between Geller and this case. For example, while Geller had no locally produced programming, TBF had two weekly locally produced series that dealt with community issues. None of the public affairs programs offered in the Geller case were offered in response to ascertained community needs. 90 FCC 2d at 265, 51 RR 2d at 1032. In this case, while TBF conducted ascertainment on a regular basis, the correlation between ascertainment and programming was sporadic at best.

698. The two most significant differences between the licensee in Geller and TBF reflect unfavorably on TBF. First, while there was no evidence that the Geller licensee had

violated Commission rules and policies (other than by offering minimal programming service), the record reflects ongoing and pervasive misconduct and deception by TBF's principals. Second, the record in this case contains many specific examples of issues that were not covered by WHFT. These differences make the case for awarding a renewal expectancy to TBF even weaker than the case for awarding a renewal expectancy in Geller. Since a renewal expectancy was denied in Geller, it must be denied in this case.

699. TBF's record bears no relationship to the record of licensees who have received renewal expectancies in recent cases. As detailed in the Review Board decision, the licensee's record in Fox Television Stations, Inc., supra, was much stronger than TBF's record. While Fox had an extensive local news department, TBF had no local news. 8 FCC Rcd at 2376-2377, 72 RR 2d 304-305 (¶16). Fox broadcast a variety of special news and public affairs programming that was tied in to its ascertained issues. Id. TBF has no such programming. On average, Fox broadcast in a day the number of PSAs that TBF broadcast in a week. 8 FCC Rcd at 2377, 72 RR 2d at 305 (¶17). Importantly, Fox's challenger did not even allege that any issue of importance to the community was not addressed. 8 FCC Rcd at 2384, 72 RR 2d at 308 (¶27). Here, many important community issues were not addressed in TBF's programming. Fox's record of community involvement was also

far more varied and extensive than TBF's record. 72 RR 2d at 321 (¶¶69-70). Of course, TBF's misconduct is also a very significant factor.

700. TBF's record is also readily distinguishable from the record at issue in Metroplex Communications, Inc., supra. Metroplex regularly broadcast news during its morning program and on other periods. 4 FCC Rcd at 8152, 67 RR 2d at 191 (¶¶20-21). Unlike TBF, it broadcast regular weather and traffic reports. Id. at ¶21. In addition to a series of public affairs programs, it broadcast four to eight times a day a feature with comments and discussions of topical concerns. Id. at ¶20. As in Fox, there was no evidence that any community issue was ignored, and the list of issues treated by Metroplex was more extensive than the list of issues treated by TBF. Id. Metroplex's community involvement was "many and variegated", unlike TBF's limited involvement. 4 FCC Rcd at 8156, 67 RR 2d at 196-197 (¶41). Finally, while evidence was taken as to possible rule violations by Metroplex, no rule violations were ultimately found. 4 FCC Rcd at 8155-8156, 67 RR 2d at 195-196 (¶¶37-39).

701. TBF's record is also very different from the record of the religious-oriented licensee in Pillar of Fire, supra. The licensee in that case had regular hourly newscasts as well as a weekly summary of local news. 57 RR 2d at 609 (¶12). TBF had no such programming. Pillar of Fire broadcast a broad

spectrum of public affairs programs, including "a patently superb public affairs program." 57 2d 611-612 and n.25. The licensee broadcast over 12,000 public service announcements in a three year license term, including many local PSAs. 57 RR 2d at 612 (¶16). That comes to a rate of about seventy-seven PSAs a week, or three times as many as TBF. Moreover, TBF had very few local PSAs. Unlike in this case, there was no evidence that Pillar of Fire ignored local issues or violated Commission rules.

702. In summary, TBF's programming record is simply too weak to merit a renewal expectancy in light of the record of misconduct and deception by its principals. TBF ignored important community issues and, at times, its own ascertainment. Many of the programs TBF relies upon were not responsive to community needs. Accordingly, TBF does not receive any renewal expectancy.³⁴

³⁴ Since TBF is disqualified, it is not necessary to rank TBF and Glendale under the standard comparative issue. In any event, a definitive comparison between TBF and Glendale is not possible until the Commission establishes new comparative criteria. FCC Freezes Comparative Proceedings, FCC 94-41 (released February 25, 1994). Glendale is entitled to an overwhelming diversification preference over TBF based upon TBF's myriad of other broadcast interests. George Gardner's interests in cable systems, on the other hand, are insignificant. Great Wichita Telecasting, Inc., 96 FCC 2d 984, 988, 55 RR 2d 926, 929 (1984).

IV. CONCLUSION

703. TBF, TBN and NMTV had shown themselves totally unqualified to remain Commission licensees. There is no evidence of misrepresentation or lack of candor on the part of Raystay Co. and George Gardner, and Glendale must therefore be found qualified to become a Commission licensee. Since Glendale is the only basically qualified applicant, its application must be granted;

ACCORDINGLY, IT IS ORDERED that the application of Trinity Broadcasting of Florida, Inc. for renewal of the license of WHFT(TV), Miami, Florida (File No. BRCT-911001LY) IS DENIED and the application of Glendale Broadcasting Company for a construction permit for a new commercial television station on Channel 45 at Miami, Florida (File No. BPCT-911227KE) IS GRANTED.